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Rep. 318; *Schlamp v. Berner's Adm'r*, 51 S. W. 312, 21 Ky. Law Rep. 324; *New York Life Ins. Co. v. Brown's Adm'r*, 139 Ky. 711, 66 S. W. 613, 23 Ky. Law Rep. 2070; *Western & Southern Life Ins. Co. v. Nagel and Western & Southern Life Ins. Co. v. Webster*, supra."

The holding of the Virginia court is in line with the above case. See *Crismond v. Jones*, 117 Va. 34, 83 S. E. 1045, and cases cited.

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**Principal and Agent—Election to Proceed against Agent—Action against Principal Barred.**—In *Georgi v. Texas Co.*, 122 N. E. 238, the Court of Appeals of New York held that where creditor proceeds against an agent after full knowledge of agency and recovers a judgment, he will be deemed to have made his election and cannot maintain an action thereafter against the principal.

The court said in part: "Where goods have been sold to an agent whose agency and principal were not known and the claim has been prosecuted to a judgment, a recovery may nevertheless be had against the actual principal when the facts are disclosed. If, however, the creditor proceeds against the agent after full knowledge of the agency and recovers a judgment, an action may not thereafter be maintained against the principal. The election to recover from the agent is then a bar to other proceedings.

"The question of election implies full knowledge of the facts necessary to enable a party to make an intelligent and deliberate choice. *Lindquist v. Dickson*, 98 Minn. 369, 107 N. W. 958, 6 L. R. A. (N. S.) 729, 8 Ann. Cas. 1024. Knowledge of the right to recover from the principal is essential before suit against the agent may be regarded as an election to look to the latter, alone for payment. Without knowing who the principal is or the fact of agency, an intelligent election is impossible. *Steele-Smith Grocery Co. v. Potthast*, 109 Iowa, 413, 80 N. W. 517. When a person contracts with another who is in fact an agent of an undisclosed principal, he may upon discovery of the principal resort to him or to the agent with whom he dealt, at his election; but if, after having come to a knowledge of all the facts, he elects to hold the agent, he cannot afterwards resort to the principal. When a creditor after all the facts have become known to him obtains a judgment against the agent, this is an election to resort to the agent to whom the credit was originally given and is a bar to an action against the principal. *Kingsley v. Davis*, 104 Mass. 178.

"The following authorities also justify this statement of the rule: *De Remer v. Brown*, 165 N. Y. 410, 59 N. E. 129; *Knapp v. Simon*, 96 N. Y. 284, 286; *Tuthill v. Wilson*, 90 N. Y. 423; *Cobb v. Knapp*, 71 N. Y. 348, 27 Am. Rep. 51; *Coleman v. First National Bank of Elmira*, 53 N. Y. 388; *Meeker v. Claghorn*, 44 N. Y. 349; *Sweeney v. Douglas Copper Co.*, 149 App. Div. 569, 134 N. Y. Supp. 247; *Rommel v. Townsend*, 83 Hun, 353, 31 N. Y. Supp. 985; *Barrell v. Newby*, 127 Fed. 656, 62 C. C. A. 382."